

## PETITION FOR WRIT OF HABEAS CORPUS

**The law does not allow personnel of the office of the Clerk of the Superior Court to assist in the selection or preparation of any forms or to advise you as to any procedure to be followed in obtaining a judgment.**

Attached are the forms usually necessary to file a petition for Writ of Habeas Corpus.

<b>Form #</b>	<b>Title</b>	<b>Number of Copies</b>
N/A	Notice: Petition for Writ of Habeas Corpus	1
MC-275	Petition for Writ of Habeas Corpus	1
HC-1	Pre-Addressed Proof of Service to Attorney General	1

**All forms must be typed or legibly printed in black ink and signed.**

Complete all forms in their entirety, i.e., all boxes checked as applicable; attachments attached, if applicable; and “None”, “Not Applicable”, or “Unknown” typed in if required.



**NOTICE:**  
**PETITION FOR WRIT OF HABEAS CORPUS**

If you are currently residing in a California Department of Corrections facility, you must serve the California Attorney General with a copy of your Petition for Writ of Habeas Corpus to comply with Penal Code Section 1475 and California Rules of Court Rule 4.551(a)(1). Enclosed in this packet is a pre-addressed proof of service to the Attorney General.

The Court's mailing address is as follows:

Superior Court of California  
240 Church Street, Room 318  
Salinas, CA 93901



Name \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

CDC or ID Number \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
(Court)**PETITION FOR WRIT OF HABEAS CORPUS**

Petitioner \_\_\_\_\_

vs.

No. \_\_\_\_\_  
(To be supplied by the Clerk of the Court)

Respondent \_\_\_\_\_

**INSTRUCTIONS — READ CAREFULLY**

- If you are challenging an order of commitment or a criminal conviction and are filing this petition in the Superior Court, you should file it in the county that made the order.
- If you are challenging the conditions of your confinement and are filing this petition in the Superior Court, you should file it in the county in which you are confined.
- Read the entire form *before* answering any questions.
- This petition must be clearly handwritten in ink or typed. You should exercise care to make sure all answers are true and correct. Because the petition includes a verification, the making of a statement that you know is false may result in a conviction for perjury.
- Answer all applicable questions in the proper spaces. If you need additional space, add an extra page and indicate that your answer is "continued on additional page."
- If you are filing this petition in the Superior Court, you need file only the original unless local rules require additional copies. Many courts require more copies.
- If you are filing this petition in the Court of Appeal, file the original and four copies.
- If you are filing this petition in the California Supreme Court, file the original and thirteen copies.
- Notify the Clerk of the Court in writing if you change your address after filing your petition.
- In most cases, the law requires service of a copy of the petition on the district attorney, city attorney, or city prosecutor. See Penal Code section 1475 and Government Code section 72193. You may serve the copy by mail.

Approved by the Judicial Council of California for use under Rules 56.5 and 201(h)(1) of the California Rules of Court [as amended effective January 1, 1999]. Subsequent amendments to Rule 44(b) may change the number of copies to be furnished the Supreme Court and Court of Appeal.

**This petition concerns:**

☐ A conviction

☐ Parole

☐ A sentence

☐ Credits

☐ Jail or prison conditions

☐ Prison discipline

☐ Other (*specify*): \_\_\_\_\_

1. Your name: \_\_\_\_\_

2. Where are you incarcerated? \_\_\_\_\_

3. Why are you in custody? ☐ Criminal Conviction ☐ Civil Commitment

*Answer subdivisions a. through i. to the best of your ability.*

a. State reason for civil commitment or, if criminal conviction, state nature of offense and enhancements (for example, "robbery with use of a deadly weapon").

\_\_\_\_\_  
\_\_\_\_\_

b. Penal or other code sections: \_\_\_\_\_

c. Name and location of sentencing or committing court: \_\_\_\_\_

\_\_\_\_\_

d. Case number: \_\_\_\_\_

e. Date convicted or committed: \_\_\_\_\_

f. Date sentenced: \_\_\_\_\_

g. Length of sentence: \_\_\_\_\_

h. When do you expect to be released? \_\_\_\_\_

i. Were you represented by counsel in the trial court? ☐ Yes. ☐ No. If yes, state the attorney's name and address:

\_\_\_\_\_  
\_\_\_\_\_

4. What was the LAST plea you entered? (*check one*)

☐ Not guilty ☐ Guilty ☐ Nolo Contendere ☐ Other: \_\_\_\_\_

5. If you pleaded not guilty, what kind of trial did you have?

☐ Jury ☐ Judge without a jury ☐ Submitted on transcript ☐ Awaiting trial

## 6. GROUNDS FOR RELIEF

**Ground 1:** State briefly the ground on which you base your claim for relief. For example, "the trial court imposed an illegal enhancement." (If you have additional grounds for relief, use a separate page for each ground. State ground 2 on page four. For additional grounds, make copies of page four and number the additional grounds in order.)

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a. Supporting facts:

Tell your story briefly without citing cases or law. If you are challenging the legality of your conviction, describe the facts upon which your conviction is based. *If necessary, attach additional pages.* CAUTION: You must state facts, not conclusions. For example, if you are claiming incompetence of counsel you must state facts specifically setting forth what your attorney did or failed to do and how that affected your trial. Failure to allege sufficient facts will result in the denial of your petition. (See *In re Swain* (1949) 34 Cal.2d 300, 304.) A rule of thumb to follow is: *who* did exactly *what* to violate your rights at what time (*when*) or place (*where*). (*If available, attach declarations, relevant records, transcripts, or other documents supporting your claim.*)

[illegible]

b. Supporting cases, rules, or other authority (optional):

*(Briefly discuss, or list by name and citation, the cases or other authorities that you think are relevant to your claim. If necessary, attach an extra page.)*

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8. Did you appeal from the conviction, sentence, or commitment? ☐ Yes. ☐ No. If yes, give the following information:
- a. Name of court ("Court of Appeal" or "Appellate Dept. of Superior Court"): \_\_\_\_\_
- b. Result: \_\_\_\_\_ c. Date of decision: \_\_\_\_\_
- d. Case number or citation of opinion, if known: \_\_\_\_\_
- e. Issues raised: (1) \_\_\_\_\_
- (2) \_\_\_\_\_
- (3) \_\_\_\_\_
- f. Were you represented by counsel on appeal? ☐ Yes. ☐ No. If yes, state the attorney's name and address, if known: \_\_\_\_\_
9. Did you seek review in the California Supreme Court? ☐ Yes. ☐ No. If yes, give the following information:
- a. Result: \_\_\_\_\_ b. Date of decision: \_\_\_\_\_
- c. Case number or citation of opinion, if known: \_\_\_\_\_
- d. Issues raised: (1) \_\_\_\_\_
- (2) \_\_\_\_\_
- (3) \_\_\_\_\_
10. If your petition makes a claim regarding your conviction, sentence, or commitment that you or your attorney did not make on appeal, explain why the claim was not made on appeal: \_\_\_\_\_
- \_\_\_\_\_
11. Administrative Review:
- a. If your petition concerns conditions of confinement or other claims for which there are administrative remedies, failure to exhaust administrative remedies may result in the denial of your petition, even if it is otherwise meritorious. (See *In re Muszalski* (1975) 52 Cal.App.3d 500 [125 Cal.Rptr. 286].) Explain what administrative review you sought or explain why you did not seek such review:
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- b. Did you seek the highest level of administrative review available? ☐ Yes. ☐ No.
- Attach documents that show you have exhausted your administrative remedies.*

12. Other than direct appeal, have you filed any other petitions, applications, or motions with respect to this conviction, commitment, or **issue** in any court? ☐ Yes. If yes, continue with number 13. ☐ No. If no, skip to number 15.

13. a. (1) Name of court: \_\_\_\_\_

(2) Nature of proceeding (for example, "habeas corpus petition"): \_\_\_\_\_

(3) Issues raised: (a) \_\_\_\_\_

(b) \_\_\_\_\_

(4) Result (*Attach order or explain why unavailable*): \_\_\_\_\_

(5) Date of decision: \_\_\_\_\_

b. (1) Name of court: \_\_\_\_\_

(2) Nature of proceeding: \_\_\_\_\_

(3) Issues raised: (a) \_\_\_\_\_

(b) \_\_\_\_\_

(4) Result (*Attach order or explain why unavailable*): \_\_\_\_\_

(5) Date of decision: \_\_\_\_\_

c. *For additional prior petitions, applications, or motions, provide the same information on a separate page.*

14. If any of the courts listed in number 13 held a hearing, state name of court, date of hearing, nature of hearing, and result:

\_\_\_\_\_  
\_\_\_\_\_

15. Explain any delay in the discovery of the claimed grounds for relief and in raising the claims in this petition. (See *In re Swain* (1949) 34 Cal.2d 300, 304.)

\_\_\_\_\_  
\_\_\_\_\_

16. Are you presently represented by counsel? ☐ Yes. ☐ No. If yes, state the attorney's name and address, if known:

\_\_\_\_\_  
\_\_\_\_\_

17. Do you have any petition, appeal, or other matter pending in any court? ☐ Yes. ☐ No. If yes, explain:

\_\_\_\_\_  
\_\_\_\_\_

18. If this petition might lawfully have been made to a lower court, state the circumstances justifying an application to this court:

\_\_\_\_\_  
\_\_\_\_\_

I, the undersigned, say: I am the petitioner in this action. I declare under penalty of perjury under the laws of the State of California that the foregoing allegations and statements are true and correct, except as to matters that are stated on my information and belief, and as to those matters, I believe them to be true.

Date: \_\_\_\_\_

(SIGNATURE OF PETITIONER)

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF MONTEREY

In re the Application of:

Petitioner,

For a Writ of Habeas Corpus.

Case No.: HC \_\_\_\_\_

**PROOF OF SERVICE**

I do hereby certify that I am not a party to the within stated cause and that on \_\_\_\_\_ I deposited true and correct copies of the following document: PETITION FOR WRIT OF HABEAS CORPUS in a sealed envelope with postage thereon fully prepaid, in the mail at \_\_\_\_\_, California, directed to the following named person at their respective address as hereinafter set forth.

BILL LOCKYEAR, ATTORNEY GENERAL  
455 Golden Gate Ave., Suite 11000  
San Francisco, CA 94102-3664

Dated this

Signature \_\_\_\_\_

